

Organizations that are exclusively religious, educational, or charitable can make application to the Department for exemption identification numbers required to make tax-free purchases of tangible personal property for use or consumption. See 86 Ill. Adm. Code 130.2005. (This is a GIL).

October 25, 2000

Dear Mr. Xxxxx:

This letter is in response to your letter dated July 19, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I am writing to request the opinion of the Department of Revenue concerning the application of the Retailer's Occupation tax to the fundraising activities of one of my clients.

I recently contacted the Department of Revenue about a religious organization that I represent. The organization functions primarily as a Christian church with a significant ministry to individuals who are dysfunctional due to alcohol and other substance abuse problems. Over the past several months, the Church leaders encouraged members and programs participants to go into the community to raise charitable donations.

I believe the activity described in the following paragraph is not subject to sales tax but the Department's position is very important to my client. Here is a descriptive scenario which generally represents the fundraising activities which is repeated many times a day throughout the city.

A young man or woman dressed in neat, clean clothes will approach a potential donor on the street, in buses, trains or other places of public accommodation. If the solicitation gains the attention of the donor, he will explain more about the charitable work of the Church. Often the donor is already familiar with the Church. If the donor is receptive to the request a small cash transfer is made ranging from 50 cents to five or ten dollars. Most donations are one or two dollars. When a donation is made, a small package of chocolate candies is offered in gratitude. Most donors accept the gift but many refuse it. There is no condition placed on the gift of candy. It is offered regardless of the size of the donation. Very few people ask for the candy when they refuse to donate and the solicitor does not offer the gift in the absence of a donation. Because the Church is well known in the solicitation area, the fundraising activity has been very effective. For that reason, I believe it is very important to have a tax opinion from the Department of Revenue.

A critical part of this transaction is that there is no *quid pro quo* agreement between solicitor and donor. The candy is not an issue until after the donation is delivered. All solicitors are carefully trained to avoid the impression of a candy sale. In this regard, the transaction is like the solicitation of the Lion's Club members who pass out a roll of Life Savers when a donation is given. My client's activities are not like the transactions that often occur in downtown Chicago between school children selling boxes of chocolate to passers-by in return for a \$5.00 'donation.' Presumably, the latter sales transaction activities are conducted by volunteer school children operating under the direction of a qualified parent/teacher organization.

The solicitors for my client's fundraising efforts are all volunteers and they receive no direct benefit for their services. In the case of program participants who help with the fundraising, there is an expectation that they will remain active and occupied during the time of their rehabilitation program. However, these people are not required to do fundraising. There are other activities around this Church facility that may draw the active attention of program participants.

If my opinion concerning the above described fundraising activity is consistent with that of the Department of Revenue, I would very much appreciate a written response. If the Department of Revenue needs more information or verification of the factual situation, I would be pleased to work with the Department's designated representative.

Thank you for your attention to this matter. I look forward to your response.

Organizations that qualify as exclusively religious, charitable, or educational can apply to the Illinois Department of Revenue to obtain tax exemption identification numbers. These numbers establish that the Department recognizes said organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If organizations do not provide vendors with active exemption identification numbers or otherwise document an exemption, sales to them are taxable. Remember only sales to organizations holding exemption numbers are tax-free, sales to individual members of organizations are taxable.

While organizations and institutions that are both operated and organized exclusively for charitable, religious, or educational purposes are as a general matter subject to Retailers' Occupation Tax upon their own sales of tangible personal property, there are three limited exceptions where such organizations are authorized to engage in a restricted amount of retail selling activity without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005(a), enclosed.

Organizations who hold exemption numbers may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities without incurring Retailers' Occupation Tax liability. These sales must be of limited duration. Organizations that engage in ongoing selling activities must register with the Department as retailers, collect and remit tax on sales and provide suppliers with Certificates of Resale for items they sell.

We do not know if the organization described in your letter has obtained a tax exemption identification number from the Illinois Department of Revenue. If it has such a number, it could engage in one of the three above cited limited types of selling without incurring Retailers' Occupation Tax. Please note that if an organization otherwise qualifies to make the noncompetitive sales described at Section 130.2005(a)(3), such sales must be infrequent and the dominant motive of the purchase must be the making of a donation to the charitable or religious organization which conducts the sale, rather than the acquisition of property.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz  
Associate Counsel

KWB:msk  
Enc.